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UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN PEARL SMITH, II,

Defendant.

No. 3:16-cr-0086-SLG-DMS

RENEWED MOTION TO DISMISS  
COUNTS 3, 4, 5 AND 6

## I. MOTION

John Pearl Smith, II, by and through counsel, hereby renews his motion to dismiss Counts 3, 4, 5 and 6 because attempted Hobbs Act robbery is not a crime of violence. Smith previously moved for dismissal on this basis on January 1, 2020. See Dkt. 623. This Court denied the motion without prejudice to renewal on February 7, 2020. See Dkt. 672.

## II. GROUNDS FOR RELIEF.

Counts 3, 4, 5 and 6 are all premised on the allegation that attempted Hobbs Act robbery is a crime of violence. On June 21, 2022, the Supreme Court determined that an attempted Hobbs Act robbery is *not* a crime of violence under 18 USC §924(c). *United States v. Taylor*, No. 201459, 2022 WL 2203334. As a result, Counts 3, 4, 5 and 6 must be dismissed.

Signed this day of 22nd day of June 2022.

/s/Suzanne Lee Elliott

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**CERTIFICATE OF SERVICE**

I, SUZANNE LEE ELLIOTT, hereby certify that on June 22, 2022, I filed  
foregoing document with the United States District Court's Electronic Case Filing  
(CM/ECF) system, which will serve one copy by email on Assistant United States  
Attorney KAREN VANDERGAW.

/s/ Suzanne Lee Elliott  
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